

109TH CONGRESS
1ST SESSION

S. 1366

To amend the Internal Revenue Code of 1986 to allow tax-free distributions from individual retirement accounts for charitable purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 30, 2005

Mr. DORGAN (for himself, Ms. SNOWE, Mr. KERRY, Mr. SMITH, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow tax-free distributions from individual retirement accounts for charitable purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public Good IRA Roll-
5 over Act”.

1 **SEC. 2. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
 2 **TIREMENT ACCOUNTS FOR CHARITABLE**
 3 **PURPOSES.**

4 (a) IN GENERAL.—Subsection (d) of section 408 of
 5 the Internal Revenue Code of 1986 (relating to individual
 6 retirement accounts) is amended by adding at the end the
 7 following new paragraph:

8 “(8) DISTRIBUTIONS FOR CHARITABLE PUR-
 9 POSES.—

10 “(A) IN GENERAL.—No amount shall be
 11 includible in gross income by reason of a quali-
 12 fied charitable distribution.

13 “(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the
 14 term ‘qualified charitable distribution’ means
 15 any distribution from an individual retirement
 16 account—
 17

18 “(i) which is made directly by the
 19 trustee—

20 “(I) to an organization described
 21 in section 170(c), or

22 “(II) to a split-interest entity,
 23 and

24 “(ii) which is made on or after the
 25 date that the individual for whose benefit
 26 the account is maintained has attained—

1 “(I) in the case of any distribu-
 2 tion described in clause (i)(I), age
 3 70½, and

4 “(II) in the case of any distribu-
 5 tion described in clause (i)(II), age
 6 59½.

7 A distribution shall be treated as a qualified
 8 charitable distribution only to the extent that
 9 the distribution would be includible in gross in-
 10 come without regard to subparagraph (A) and,
 11 in the case of a distribution to a split-interest
 12 entity, only if no person holds an income inter-
 13 est in the amounts in the split-interest entity
 14 attributable to such distribution other than one
 15 or more of the following: the individual for
 16 whose benefit such account is maintained, the
 17 spouse of such individual, or any organization
 18 described in section 170(c).

19 “(C) CONTRIBUTIONS MUST BE OTHER-
 20 WISE DEDUCTIBLE.—For purposes of this para-
 21 graph—

22 “(i) DIRECT CONTRIBUTIONS.—A dis-
 23 tribution to an organization described in
 24 section 170(c) shall be treated as a quali-
 25 fied charitable distribution only if a deduc-

tion for the entire distribution would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

“(ii) SPLIT-INTEREST GIFTS.—A distribution to a split-interest entity shall be treated as a qualified charitable distribution only if a deduction for the entire value of the interest in the distribution for the use of an organization described in section 170(c) would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

“(D) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would be so includible if all amounts were distributed from all individual retirement accounts otherwise taken into account in determining the inclusion on such distribution under section 72. Proper ad-

justments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

“(E) SPECIAL RULES FOR SPLIT-INTEREST ENTITIES.—

“(i) CHARITABLE REMAINDER TRUSTS.—Notwithstanding section 664(b), distributions made from a trust described in subparagraph (G)(i) shall be treated as ordinary income in the hands of the beneficiary to whom is paid the annuity described in section 664(d)(1)(A) or the payment described in section 664(d)(2)(A).

“(ii) POOLED INCOME FUNDS.—No amount shall be includible in the gross income of a pooled income fund (as defined in subparagraph (G)(ii)) by reason of a qualified charitable distribution to such fund, and all distributions from the fund which are attributable to qualified charitable distributions shall be treated as ordinary income to the beneficiary.

“(iii) CHARITABLE GIFT ANNUITIES.—Qualified charitable distributions made for a charitable gift annuity shall not

1 be treated as an investment in the con-
 2 tract.

3 “(F) DENIAL OF DEDUCTION.—Qualified
 4 charitable distributions shall not be taken into
 5 account in determining the deduction under sec-
 6 tion 170.

7 “(G) SPLIT-INTEREST ENTITY DEFINED.—
 8 For purposes of this paragraph, the term ‘split-
 9 interest entity’ means—

10 “(i) a charitable remainder annuity
 11 trust or a charitable remainder unitrust
 12 (as such terms are defined in section
 13 664(d)) which must be funded exclusively
 14 by qualified charitable distributions,

15 “(ii) a pooled income fund (as defined
 16 in section 642(c)(5)), but only if the fund
 17 accounts separately for amounts attrib-
 18 utable to qualified charitable distributions,
 19 and

20 “(iii) a charitable gift annuity (as de-
 21 fined in section 501(m)(5)).”.

22 (b) EFFECTIVE DATE.—The amendment made by
 23 this section shall apply to taxable years beginning after
 24 December 31, 2004.

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